

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine by removing and adding commuted traveltime allowances for travel between various locations in California and North Carolina. Commuted traveltime allowances are the periods of time required for Plant Protection and Quarantine employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Plant Protection and Quarantine employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: May 9, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Eggert, Assistant to the Deputy Administrator, Resource Management Staff, PPQ, APHIS, Suite 4C03, 4700 River Road Unit 130, Riverdale, MD 20737-1236; (301) 734-7764.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, chapter III, and 9 CFR, chapter I, subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal byproducts, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Plant Protection and Quarantine (PPQ) on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for PPQ employees to travel from their dispatch points and return

there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by removing and adding commuted traveltime allowances for travel between various locations in California and North Carolina. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, 7 CFR part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by removing or adding in the table, in alphabetical order under California and North Carolina, the following entries to read as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
[Remove]			
*	*	*	*
North Carolina:			
Camp Lejeune	Kenansville or Kinston		3
Camp Lejeune	Wallace or Wilmington		3
*	*	*	*
New River MCAS	Kenansville		3
New River MCAS	Wallace		3
Pope AFB	Fayetteville	1¼	
Pope AFB	Raeford		2
*	*	*	*
[Add]			
*	*	*	*
California:			
March AFB	Ontario		3
*	*	*	*
North Carolina:			
*	*	*	*
Camp Lejeune	Wilmington		3
Morehead City	Clinton		4
*	*	*	*
Pope AFB	Clinton		2½
Pope AFB	Fayetteville	1½	
Pope AFB	Goldsboro		4
*	*	*	*
Raleigh	Fayetteville		4
*	*	*	*

Done in Washington, DC, this 28th day of April 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-11295 Filed 5-8-95; 8:45 am]

BILLING CODE 3410-34-P

Agricultural Marketing Service

7 CFR Parts 911 and 915

[FV95-911-1FIR]

Expenses and Assessment Rates for Marketing Orders Covering Limes and Avocados Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as

a final rule, without change, the provisions of the interim final rule which authorized expenses and established assessment rates for the Florida Lime Administrative Committee and the Avocado Administrative Committee (Committees) under Marketing Orders 911 and 915 for the 1995-96 fiscal year. Authorization of these budgets enables the Committees to incur expenses that are reasonable and necessary to administer their respective programs. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATE: Effective beginning April 1, 1995, through March 31, 1996.

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone (202) 720-5331; or Aleck Jonas, Southeast Marketing Field Office, Fruit

and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883, telephone (813) 299-4770.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 911 [7 CFR Part 911], as amended, regulating the handling of limes grown in Florida; and Marketing Agreement and Order No. 915 [7 CFR Part 915] regulating the handling of avocados grown in Florida. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], hereinafter referred to as the "Act".

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, limes and avocados grown in Florida are

subject to assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable Florida limes and avocados handled during the 1995–96 fiscal year, beginning April 1, 1995, through March 31, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 45 handlers of limes grown in Florida, and approximately 40 producers in the regulated area. Also, there are approximately 65 handlers of avocados grown in Florida, and approximately 95 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of lime and avocado producers and handlers may be classified as small entities.

The lime and avocado marketing orders, administered by the Department, require that the assessment rates for a particular fiscal year apply to all assessable limes and avocados handled from the beginning of such year. Annual budgets of expenses are prepared by the Committees, the agencies responsible for local administration of their respective marketing orders, and submitted to the Department for approval. Each Committee consists of producers, handlers and a non-industry public member. They are familiar with the Committees' needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate appropriate budgets. The Committees' budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rates recommended by the Committees are derived by dividing anticipated expenses by expected shipments of limes and avocados (in bushels). Because those rates are applied to actual shipments, they must be established at rates which will produce sufficient income to pay the Committees' expected expenses. The recommended budgets and rates of assessment are usually acted upon by the Committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committees will have funds to pay their expenses.

The Florida Lime Administrative Committee met on December 14, 1994, and unanimously recommended 1995–96 expenses of \$92,270. In comparison, the 1994–95 fiscal year expense amount was \$92,197, which is \$73 less in expenses than the amount recommended for this fiscal year.

The Committee also unanimously recommended an assessment rate of \$0.16 per 55-pound bushel of limes. The 1995–96 assessment rate remains unchanged from the previous fiscal year. Assessment income for 1995–96 is estimated to total \$64,000 based on anticipated fresh domestic shipments of 400,000 bushels of limes. This, along with \$2,500 in interest income, and a withdrawal of \$25,770 from the Committee's reserve fund will be adequate to cover estimated expenses. Funds in the reserve at the end of the 1995–96 fiscal year are within the maximum permitted by the order of three fiscal years' expenses.

Major budget categories for the 1995–96 fiscal year are \$34,000 for administrative staff salaries, \$10,000 for

research, \$8,300 for compliance, and \$7,300 for employee benefits.

The Avocado Administrative Committee also met on December 14, 1994, and unanimously recommended 1995–96 expenses of \$107,570. In comparison, 1994–95 fiscal year expenses were \$116,420, which is \$8,850 more than the \$107,570 recommended for this fiscal year.

An assessment rate of \$0.16 per 55-pound bushel of avocados was also unanimously recommended by the Committee. The 1995–96 rate of assessment remains the same as the previous fiscal year. Assessment income for 1995–96 is estimated to total \$112,000 based on anticipated fresh domestic shipments of 700,000 bushels of avocados. Assessment income, plus an additional \$1,500 in interest income will provide sufficient funds to cover budgeted expenses. The Committee anticipates a reserve fund increase of \$5,930 because assessment income is more than budgeted expenses. Funds in the reserve at the end of the 1995–96 fiscal year are within the maximum permitted by the order of three fiscal years' expenses.

Major budget categories for the 1995–96 fiscal year are \$34,000 for administrative staff salaries, \$15,600 for compliance, \$12,810 for insurance and bonds, and \$10,000 for research.

An interim final rule was issued on February 8, 1995, and published in the **Federal Register** [60 FR 8523; February 15, 1995] and provided a 30-day comment period for interested persons. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is found that the specified expenses for the marketing orders covered in this rule are reasonable and likely to be incurred and that such expenses and the specified assessment rates to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** [5 U.S.C. 553] because the Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1995–96 fiscal year for the programs began April 1,

1995. The marketing orders require that the rates of assessment apply to all assessable limes and avocados handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committees at public meetings and published in the **Federal Register** as an interim final rule. No comments were received concerning the interim final rule that is adopted in this action as a final rule without change.

List of Subjects

7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 911 and 915 are amended as follows:

1. The authority citation for both 7 CFR parts 911 and 915 continues to read as follows:

Authority: 7 U.S.C. 601-674.

PART 911—LIMES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 911 which was published at 60 FR 8523 on February 15, 1995, is adopted as a final rule without change.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Accordingly, the interim final rule amending 7 CFR part 915 which was published at 60 FR 8523 on February 15, 1995, is adopted as a final rule without change.

Dated: May 3, 1995.

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95-11307 Filed 5-8-95; 8:45 am]
BILLING CODE 3410-02-P

7 CFR Part 958

[Docket No. FV95-958-1IFR]

Idaho-Eastern Oregon Onions; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures of \$1,111,447

and establishes an assessment rate of \$0.10 per hundredweight of onions under Marketing Order No. 958 for the 1995-96 fiscal period. Authorization of this budget enables the Idaho-Eastern Oregon Onion Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Effective July 1, 1995, through June 30, 1996. Comments received by June 8, 1995, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone number 202-720-9918, or Robert J. Curry, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone number 503-326-2724.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Marketing Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

The U.S. Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect Idaho-Eastern Oregon onions are subject to assessments. Funds to administer the Idaho-Eastern Oregon onion marketing order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions during the 1995-96 fiscal period which

begins July 1, 1995, and ends June 30, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 450 producers of Idaho-Eastern Oregon onions under the marketing order and approximately 35 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of Idaho-Eastern Oregon onion producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 fiscal period was prepared by the Idaho-Eastern Oregon Onion Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers